

SITE: Smoky Mountain
BREAK: 17 #
OTHER: V. 7



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<http://web.utk.edu/~noli/envrepts/WSPOON.htm>

HISTORY OF THE WITHERSPOON PROBLEM

Updated 7/31/02

The Witherspoon controversy centers around three parcels of land, all located in the economically depressed Vestal neighborhood of South Knoxville. These are the Candora site (also known as Witherspoon Recycling) at 901 Maryville Pike; the site at 1630 Maryville Pike (sometimes referred to in state documents as the "Screen Arts" site; part of this land is also called the "hot field"); and the David Witherspoon landfill, which covers over forty acres to the rear of the 1630 site. Ownership of these properties is complex, but all were used over a period of many years by David Witherspoon, Inc., for the processing of scrap metals.

David Witherspoon, Inc. was established in 1948 by David Witherspoon, Sr. During the 50s, 60s and 70s, the company handled thousands of tons of scrap metal contaminated with radioisotopes, asbestos, and various toxic chemicals. Much of it came from Atomic Energy Commission (AEC) -- later, Department of Energy (DOE) -- nuclear weapons production facilities, particularly the White Wing scrap yard in Oak Ridge. Witherspoon also received "special nuclear material" containing highly enriched uranium from the Babcock and Wilcox Naval Nuclear Fuel Division plant in Lynchburg, Virginia, and was licensed to handle radioactive materials on site at the Goodyear Atomic Corporation plant in Piketon, Ohio; the United Nuclear Corporation, Chemical Products Division, in Hematite, Missouri; and the Atomic Energy Commission facilities at Oak Ridge National Laboratory, Paducah, Kentucky, and St. Louis, Missouri (including, curiously, the St. Louis airport). Tennessee radiological health files also contain references to shipments of radioactive materials from an ore processing plant in Welden Springs, Missouri, and from National Lead of Ohio. (The former were contaminated with radioactive thorium, the latter with uranium.)

Radioactively or chemically contaminated metal in the form of large pieces of equipment, pipes, parts, chips, or tailings was shipped from these facilities to the Witherspoon sites by truck and by rail. Witherspoon's 1966 license from the Atomic Energy Commission authorized the processing of 5000 tons of scrap metal with uranium surface contamination not to exceed 0.1% by weight.

Using geiger counters, neighborhood women working for slightly more than minimum wage -- often with no protection other than gloves -- sorted the radioactive metal by hand, placed it into barrels and carried it into a warehouse. Metals were identified by using a grinder to remove the outer layer of rust and dirt and then applying acid to see what color the metal would turn. The grinding operation undoubtedly released radioactive particles into the air, which could easily have been inhaled by workers. Dorothy Hunley, who worked at this job for 12 years, died in 1985 of osteogenic sarcoma, a rare bone cancer associated with ingestion or inhalation of radioisotopes.

Other workers have reported that transformers shipped from various locations were smashed open with a wrecking ball and the liquid inside (presumably consisting largely of PCBs) was spread on the ground to control dust. The purpose of this operation was to salvage the copper wiring inside the transformers.

Neighbors and former workers tell stories of large pieces of heavy equipment (including jeeps, trucks, and a crane) being offloaded from trains and buried in the Witherspoon landfill, apparently because the metal was too radioactive to recycle.

Witherspoon operations also included the smelting of radioactively contaminated metals, for which permission was granted by the state, beginning in December, 1968. But Witherspoon's license to handle radioactive waste expired in 1971 and was apparently never renewed.

Tennessee Department of Conservation and Tennessee Occupational Safety and Health Administration files on Witherspoon are voluminous with complaints and reports of violations. A 1971 state inspection found incoming

scrap metal with radioactivity measuring 50 millirems per hour, a level sufficient to be of concern for worker safety. A 1973 inspection found a pipe leaching uranium near Goose creek, which runs through the property and also found unmarked piles of scrap iron measuring 150 millirems per hour. This investigation also turned up barrels of uranium turnings, which Witherspoon was not licensed to handle.

In 1976 the Tennessee Division of Occupational and Radiological Health tried to collect a fine of \$120 leveled against David Witherspoon, Inc., for inadequate restrooms. The Attorney General's office recommended that the state not pursue the fine, because Witherspoon was declaring insolvency. Witherspoon, however, continued to do business.

Through the years Witherspoon resold a great deal of the contaminated scrap to the Knoxville Iron Company. A 1981 investigation by the Nuclear Regulatory Commission (NRC) found that Witherspoon had bought over 200,000 pounds of steel contaminated with uranium 235, never reported the shipment, and then resold the steel to the Knoxville Iron Company, all in violation of NRC regulations. NRC was unable to determine what happened to the steel after that. No fine was levied against Witherspoon, though his NRC license to handle enriched uranium was eventually revoked. Witherspoon's response to an NRC query as to why he did not know where the metal had gone was: "Iron is iron."

Sales of scrap metal from DOE contractors to David Witherspoon, Inc. continued at least until April, 1984, according to a 1990 DOE memo addressed to G. Wilson Horde, Jr., General Counsel of Martin Marietta Energy Systems. It is unclear when shipments of radioactive and contaminated scrap ceased.

In the early 80s a partial cleanup took place at the hot field. Soil contaminated with PCBs and uranium was removed from the surface of the hot field, placed in barrels, and moved to the Candora site. In May of 1985 the Tennessee Department of Health and Environment ordered Witherspoon to dispose of these barrels within six months or pay a \$50,000 fine. Witherspoon failed to meet the deadline, which was then extended. The extended deadline also passed, and the fine still has not been paid. Witherspoon's reason for not disposing of the barrels was that no facility in the country was willing or able to accept this sort of mixed waste; thus it remained onsite in leaking barrels -- immediately adjacent to a residential neighborhood.

In 1985, largely in response to news accounts of Dorothy Hunley's death, an organization called *South Knoxville Citizens for a Better Environment* was formed to gather information about the Witherspoon sites and to demand prompt cleanup. The group obtained Tennessee Division of Radiological Health documents indicating that although ten to fifteen violations had been found at each inspection since 1967, this had not resulted in any revocation or alteration of Witherspoon's license to handle radioactive materials. The group also called for fencing of the sites and the posting of warning signs. It continued meeting for a time but ultimately disbanded.

On September 13, 1985, the *Knoxville Journal* quoted Mike Mobley, Tennessee's director of radiological health, as saying of Witherspoon, "that place has been a very, very consistent violator." "I guess," he added, "it took us a long time to get to the point where we said 'Enough is enough'".

In 1986 the Department of Energy agreed to take the Candora site barrels and also 329 tons of contaminated scrap metal back to the Oak Ridge Reservation. The scrap included pipes and centrifugal pumps contaminated with "yellow cake" (uranium hexafluoride, the uranium compound used in the enrichment process at the K-25 gaseous diffusion plant in Oak Ridge). Some of the material also contained asbestos. Removal of the scrap metal was completed on August 8. Some of the barrels were also removed by DOE, but DOE refused to take the others after it discovered that they contained PCBs. DOE officials disclaimed responsibility for the PCBs. No significant action was taken by the state or DOE for several years.

In 1989, residents of Vestal and other nearby areas formed Project Witherspoon, an organization whose aim was to pressure government agencies to investigate the sites and (ultimately) clean them up. As with the South Knoxville Citizens for a Better Environment, one of this new group's first requests to the state was for secure fencing and posting of the sites. Neighborhood children have been known to trespass there, and pets may pick up and carry home

contaminants from the sites. Illegal hunting occurs fairly frequently in the landfill area, much of which is now wooded. Project Witherspoon also asked for removal of the rusting and leaking barrels of mixed waste stored at the Candora site. Another significant problem noted by Project Witherspoon was the burning (often at night) of trash, including piles of tires, at the Witherspoon sites. (This had been occurring sporadically for years and had in the 50s and 60s been so intense that one former resident of Woodson Avenue, near the Witherspoon landfill, recalls that the grass in her yard turned black.) Finally, Project Witherspoon expressed concern about the possible contamination of Goose Creek, which passed through the Candora site and then, less than half a mile downstream, goes through Mary Vestal Park, a place frequented by children.

As a result of Project Witherspoon's efforts, the Tennessee Department of Health and Environment (TDHE) began an investigation and discovered widespread radioactive contamination in excess of permissible limits in the soil at the Candora site, some of it extending offsite into a nearby ditch. TDHE also ordered Witherspoon to place the barrels of waste located at the Candora site in land-sea containers where they would not be exposed to soil or weather. Witherspoon eventually complied with this order.

In the meantime, TDHE once again sought DOE help in disposing of the barrels of waste stored at the Candora site. In an interview published in the *Knoxville News-Sentinel* on July 6, 1990, Mike Mobley, Tennessee's director of radiological health spoke again of the DOE's refusal to take the barrels. "We have asked them formally. We have asked then verbally -- by phone. We have had many discussions about how they could reasonably deal with the material," Mobley said. He also said, "In fact, we believe they [the DOE] are largely responsible for part of the problem, because Witherspoon should not have been shipped the kinds of materials he was shipped."

On June 16, 1990, Project Witherspoon held a "March Against Toxic Waste in Our Backyard" in the vicinity of the Candora site. The event was attended by well over 100 people. Albert Gore Jr., at that time a U.S. Senator, speaking at Mary Vestal Park after the march, called for an EPA investigation of the Witherspoon sites. Representatives from the EPA came to Knoxville later that summer, toured the site, decided it was probably not eligible for the national priority list (because not enough people in the area used well water), and turned the investigation back over to the state.

On July 12, 1990, the *Knoxville News-Sentinel* published an editorial calling for DOE help in cleaning up the sites. The *Knoxville Journal* ran an editorial cartoon lampooning DOE's refusal to accept responsibility for the waste the next day. At about the same time, Senator Jim Sasser initiated a General Accounting Office investigation of DOE's role in contaminating the sites, calling the DOE's continued refusal to accept the contaminated barrels "highly irresponsible". In a letter to Charles A. Bowher, Comptroller General of the GAO, Sasser asserted that "...DOE's insistence that it has no responsibility in this problem appears to be unsupportable."

In the meantime, prodded by Project Witherspoon and Gore's office, TDHE investigators conducted took a new round of samples. Results showed all three sites to be contaminated with quantities of PCBs and heavy metals (most notably mercury, cadmium and lead) in excess of state limits. In addition, polynuclear aromatic hydrocarbons were found in the vicinity of the hot field. The TDHE fact sheet for the landfill site stated that, though the landfill was allegedly closed in 1973, there was evidence of illegal dumping there as late as 1983.

As a result of these tests, all three sites were promulgated for the Tennessee Superfund list. The Tennessee Department of Health and Environment held a public hearing on the superfund listing in Knoxville on October 11, 1990. Over 100 people attended (one news report said 149); all who spoke favored the superfund listing. There was considerable anger and emotion. Ken Pointer, enforcement manager for the Tennessee Division of Superfund, was quoted in the *Knoxville Journal* as saying that he was "pretty overwhelmed" by the turnout. "This has by far surpassed anything I've seen since I came to superfund," he said.

On October 17, 1990, members of Project Witherspoon attended a DOE public hearing in Oak Ridge concerning environmental restoration plans for the Oak Ridge Reservation. They asked for DOE help with the cleanup and a DOE investigation of the Witherspoon site. Bill Adams, DOE's assistant manager for environmental restoration

while admitting that DOE sold radioactive scrap metal to Witherspoon, stated that there was no evidence that the PCBs found at the site came from Oak Ridge and that the DOE had no responsibility to remove them.

Shortly thereafter, Project Witherspoon obtained through inquiries to DOE, bills of sale indicating that DOE contractor Union Carbide had on several occasions sold transformers (which almost certainly contained PCBs) to Witherspoon.

In November the state took new radiological samples at the Witherspoon sites. Among the findings were a piece of "yellow cake" whose radioactivity measured 26,000 picocuries per gram. The applicable state cleanup guideline is 35 picocuries per gram.

On December 4, 1990, the Tennessee Solid Waste Control Board voted unanimously to place all three Witherspoon sites on the Tennessee Superfund list. After the hearing, Dan Hawkins, acting manager of the Knoxville office of the Tennessee Division of Superfund said, referring to all three sites, "This will most likely be one of our top priorities, if not our top priority."

On January 18, 1991, J. W. Luna, Commissioner of the Tennessee Department of Health and Environment, issued orders to Witherspoon, Inc., several persons associated with Witherspoon, DOE, and DOE's former contractor Union Carbide, to commence further testing, cleanup, and partial fencing of the hot field and landfill. A similar order for the Candora site (which included full fencing) was issued about two months later.

DOE and Union Carbide quickly moved to have the order dismissed on grounds of sovereign immunity. Witherspoon appealed on other grounds. Though Witherspoon eventually built a small section of fence at the Candora site, none of the parties complied with either the spirit or the substance of the order.

In June 1991 a Tennessee administrative law judge ruled that DOE and Union Carbide have sovereign immunity with regard to the the Dupont Smith scrapyard in Oak Ridge. This ruling was widely regarded as setting a precedent for the Witherspoon case. The state has appealed the ruling to the Tennessee Solid Waste Control Board, but its negotiations with the DOE (discussed below) have indefinitely postponed any hearing.

In April 1991, the Tennessee Department of Conservation conducted further tests at the Candora site and in Goose Creek, both upstream and downstream at Mary Vestal Park. They found excessive mercury and PCB levels both in the soil and in the creek sediments on site (mercury levels were 26,000 parts per billion in the soil and 22,100 parts per billion in the creek; the Tennessee superfund limit is 12,000 parts per billion). Upstream the creek showed no contamination, though there were detectable levels of mercury and PCBs downstream in the park, indicating offsite migration of these materials. Concentrations in the park, however, were below the state's levels of concern.

Members of Project Witherspoon were told by state officials as early as April, 1991, that if Witherspoon did not comply with the fencing order at the Candora site, the state would begin construction there "probably within 30 days". Witherspoon did not comply. Project Witherspoon representatives made repeated inquiries at the Division of Superfund throughout the spring, summer, and fall -- and were consistently told that the fence would be erected soon. Finally, in late November or early December the state did build the fence.

In the summer of 1991 Witherspoon held an auction of scrap metal at the Candora site. State superfund officials inspected some of the scrap and found it radioactive. They asked the Tennessee Attorney General for an order to halt the sale and were told that the Attorney General did not have the authority to do so.

In November of 1991, the DOE released a new batch of documents in response to a Freedom of Information Act request by Ralph Hutchison of the Oak Ridge Environmental Peace Alliance. Among these were several documents indicating that some of the material shipped to South Knoxville from Oak Ridge may have been contaminated with plutonium. An internal DOE memo dated April 21, 1969 stated that "the purchaser [Witherspoon] should emphatically be made aware that the material he is contracting to handle does contain a plutonium potential and we

cannot guarantee a specific level below which all the material will read." A second memo, dated June 4, 1969, said that though most of the potentially plutonium-contaminated material sold to Witherspoon remained in Oak Ridge, "four or five pickup truckloads have been taken to Knoxville."

Concerned by the slow progress of the state's efforts against Witherspoon and the DOE, Project Witherspoon sought the aid of Knoxville Legal Aid attorney Cheryl Laubis. In the fall of 1991 Laubis helped Project Witherspoon to file a request to intervene in the administrative dispute between these parties, citing the need for citizen oversight to ensure that the state exercises all its options in seeking to resolve the Witherspoon case. The request detailed the long history of delays and inaction or ineffective action by the state.

A week later, Project Witherspoon was informed that the DOE had abruptly reversed its position and agreed to come to the bargaining table with state officials and Witherspoon to discuss possible cleanup and remediation. The first negotiating session was set for January 23, 1992. Project Witherspoon members asked to be included in these negotiating sessions, but were refused. Even requests from Al Gore's office to include Project Witherspoon representatives proved fruitless.

On January 13, 1992, Tennessee Administrative Law Judge Robert McGowan ruled that the Project Witherspoon intervention request was premature, since the matter was not yet scheduled for a hearing before the Tennessee Solid Waste Disposal Control Board. (A hearing originally set for February 14-15, had been postponed indefinitely by the state in response to DOE's offer to negotiate.) This meant that Project Witherspoon's concerns would not be heard at least until after all the other parties had reached an agreement -- or the negotiations failed. Tracy Carter, the attorney for the state, agreed nevertheless to take Project Witherspoon's "wish list" to the negotiations.

On January 17, through the efforts of State Representative Ray Hill, the Tennessee House Committee to Study Public and Environmental Health came to Knoxville and toured the Witherspoon sites. They held a public hearing the next day at which many members of the Vestal community and Project Witherspoon testified. Representative Hill promised to appoint a member of Project Witherspoon as his personal representative to the January 23 negotiations, if he could. He later informed us that due to David Witherspoon's objections he was unable to do so.

The first negotiating session was thus held without representation from the Vestal community. At that session, DOE promised to prepare and submit a response by February 17. All through the spring and summer of 1992 there was no word of any response. In early September, Al Gore, now the Democratic Vice-Presidential candidate, wrote (with Project Witherspoon's help) a letter to Energy Secretary Watkins requesting that DOE provide an update of the negotiations and asking once again that members of Project Witherspoon be directly involved.

Sometime in January or February the Division of Superfund erected a fence around the Candora site -- finally making it, at least, partially secure from pets and children. There were repeated problems, however, with theft of sections of the fence.

On March 23, 1992, the state approved a cleanup plan proposed by Witherspoon in response to the state's orders, but on April 23 Witherspoon informed the state that his company was not financially able to implement it.

Project Witherspoon had several times over the years suggested to state officials that the Witherspoon sites ought to be posted to warn trespassers of possible dangers. (We were concerned because children sneak onto the sites and illegal hunting takes place at the landfill.) These requests produced no action. Finally, in the spring of 1992, Project Witherspoon President Todd Shelton suggested asked the Knoxville superfund office if they would post the sites if Project Witherspoon supplied warning signs. They agreed. John Brichetto made and donated a number of bright yellow and magenta metal signs the size and shape of license plates. The signs said, "WARNING / TOXIC AND RADIOACTIVE AREA / KEEP OUT," wording suggested to Todd by Dan Hawkins of the Knoxville superfund office. The first batch of these signs was delivered to Chris Andel at the Knoxville superfund office on July 1. Channel 6 covered the delivery and emphasized the fact that citizens had to make the signs, rather than the state.

The following week Dan Hawkins called Todd Shelton and John Nolt into his office for a tense meeting. He was angry about the TV coverage and about \$15,000 of testing equipment that had been stolen from the sites during well-drilling and core-sampling operations, which commenced in early summer. His tone betrayed suspicion that we might be linked to this larceny in some way. (More was stolen or destroyed later in the summer; locks on the well caps were broken and the wells were contaminated with glass and sticks, invalidating further sampling. In consequence, groundwater monitoring for most of the landfill became impossible. The culprits were never apprehended.) Finally, Hawkins informed us that the state had a legal problem with the use of the word "area" on the signs. Apparently the term "radioactive area" has a specific definition under the law which the Witherspoon sites may not meet, and the state was concerned about liability in posting the signs. Eventually the state's legal staff decided that the signs would have to be modified by replacing the word "area" by "materials". They ordered some printed tape to make this change.

Meanwhile, Project Witherspoon, impatient over the repeated delays, decided that if the signs were not in place before August 11, we would post them ourselves, though this meant trespassing and possible arrest. We informed the state and the press of our intentions and held a series of planning meetings and a nonviolence training session (conducted by Ralph Hutchison and Lisa McCleod of the Oak Ridge Environmental Peace Alliance) to prepare for civil disobedience. Late on the afternoon of August 10, state officials posted the signs.

While all this was going on, two student interns from Vanderbilt University's Service Training for Environmental Progress (STEP) were assisting Project Witherspoon with the research and design of a long-contemplated project: a community health survey. The interns, Jeff Carter and Lara Setti, spent most of the summer here and left us with a wealth of information and a draft of the survey itself.

Lara and Jeff also helped us locate and contact community members who use well water. Dan Hawkins agreed that the state would test the water of those close to the sites. We announced this agreement in our newsletter, and the state superfund office received requests for well testing from at least ten homes. The state took well water samples at several residences in July. These proved to be uncontaminated. Some of the others were tested in October. The results Project Witherspoon has seen so far show little, if any, contamination, but we have not seen all the results.

At an August 4 meeting we decided to seek the help of Rural Southern Voice for Peace (RSVP) in combining our health survey with a listening project to ascertain community concerns. RSVP has considerable experience in conducting listening projects -- some in communities dealing with toxic waste problems.

Twice in late August 1992 the Rural Metro fire department was called in the middle of the night to extinguish piles of burning tires on the Witherspoon sites. When Todd Shelton contacted Rural Metro, the firemen seemed unaware of the nature of the hazards onsite. Todd suggested a meeting between Rural Metro and the state superfund office. This occurred, and received TV coverage on about September 16. Firemen would henceforth be required to wear special gear upon entering the Witherspoon sites. State and county officials also met with David Witherspoon Jr. and received his assurance that no more tires remained on site. Astonishingly, yet another tire fire occurred late in the evening of October 2; this time emergency response teams came in with a large number of personnel and vehicles -- and a helicopter which traced the smoke-plume as far as Maryville. The bills were reportedly charged to Witherspoon.

In September Project Witherspoon was contacted by the Southern Organizing Committee (SOC), a civil rights group that had recently staged a takeover of an EPA convention on environmental racism in Atlanta. The EPA had agreed to negotiate with SOC regarding the worst hazardous waste sites in poor or minority communities in each of the southern states. SOC wanted us to authorize them to negotiate with the EPA on our behalf. Since at the time we had no irons in the fire with EPA and no extra energy to push anything ourselves, we agreed. But we made it clear to SOC that their negotiations were to be preliminary and that Project Witherspoon would need to deal directly with the EPA if the EPA agreed to re-examine the Witherspoon sites. In April of 1993, SOC sent a letter to President Clinton and Vice President Gore listing demands for a number of toxic waste sites throughout the South. The demands listed

for the Witherspoon sites were that the sites should be given further consideration for the National Priority (Superfund) List and that EPA should pressure DOE to take responsibility for remediation efforts.

Because by late July there had been no visible action on state's negotiations since January, Project Witherspoon asked Knoxville Legal Aid to request Judge McGowan, who had originally declined to rule on our intervention request, to reconsider his refusal in light of the apparent lack of progress in the negotiations. To our surprise, he agreed, and at a hearing on September 18 ruled that those members of Project Witherspoon who had filed the intervention request were now parties with legal standing in the dispute. DOE promptly appealed this ruling.

On October 17, David Grant from Rural Southern Voice for Peace came to Vestal to conduct a training session which initiated the health survey and listening project. Fourteen volunteers went out in pairs into the community that afternoon. The first day's work revealed some startling information. One of the families surveyed produced a letter from Chris Anel at the state superfund office informing them that the back yard of a home they own on Chestnut Avenue near the Candora site is contaminated with PCBs and other toxics above acceptable levels for residential areas. The letter warned them not to let anyone into the yard. The family explained that the house's former occupants had included teenagers who had stolen material from Witherspoon and burned some of it in the back yard. The spots on which the burning had taken place were the areas found to be contaminated.

In December, Martin Marietta Energy Systems, Inc., and the DOE finally agreed to one of Project Witherspoon's original demands: removal of the barrels of contaminated soil from the Candora site. The state agreed to waive a \$96,000 fine against the DOE for unrelated violations at their Oak Ridge operations in return for this "cleanup". In all, 232 55-gallon drums of mixed waste were to be taken from the Candora site to Oak Ridge, along with 26 drums and 10 boxes of waste that had been stored in the warehouse at the Candora site. This was done in January, 1993, with a great deal of fanfare in the press. Many people got the impression from the press coverage that the Witherspoon sites had been cleaned up. Nothing could be further from the truth. Only a relatively small amount of already containerized waste was removed. The soil of all three sites remained contaminated, nothing was done about surface or ground water, and the landfill remained untouched.

The total cost for this DOE operation was in excess of a million dollars.

In late January, preliminary test results from the shallow ground water tests conducted in July at the Candora site became available. These showed contamination of groundwater with lead, mercury, chromium, beryllium, antimony and several organic compounds in excess of state standards. Particularly striking were the data for beryllium. Soil samples showed readings as high as 4.7 milligrams per kilogram. The state's health-based limit is 0.143 milligrams per kilogram. In the shallow groundwater the beryllium concentration reached 6.9 milligrams per liter; health based-criteria set the limit at 0.00714 milligrams per liter.

On March 3, 1993, the state's Division of Radiological Health conducted a survey of the Candora site which revealed continuing radioactive contamination.

Project Witherspoon completed the listening project/health survey on April 24, at which time 70 homes had been visited. This last survey day brought a new revelation: a long-time resident showed Project Witherspoon members a place in the Witherspoon Landfill where entire rail cars had been buried. A gondola-style car filled with concrete and topped with a sealed steel box was clearly visible partially buried in a bank near the rail line.

We did not, however, find any outstanding pattern of illness. All the illnesses we asked about were within statistical expectations for U.S. averages.

Meanwhile, as a result of the tire fires that had occurred the previous fall, the Knox County Air Pollution Control Board assessed a \$3,000 fine against David Witherspoon Jr. Witherspoon appealed the fine to the board on the grounds that he had not set the fires. The appeal was heard on April 29 in Knoxville. Witherspoon was there, represented by attorney Charles Rader. About 20 members and supporters of Project Witherspoon also attended -- on

very short notice. (Todd Shelton had received an anonymous phone call about the hearing a couple of days before it occurred.) At this hearing it emerged that piles of tires still remain on the Witherspoon sites. One of the board members asked Witherspoon if he would remove the tires as a show of good faith to the community. He answered that he would do so only on the condition that he not have to pay the fine. Dan Hawkins was there and gave strong testimony regarding Witherspoon's lack of cooperation with state superfund officials. The board voted unanimously to reject Witherspoon's appeal.

On May 17, Dan Hawkins and Chris Andel from the superfund office, Billy Freeman from the state's Department of Radiological Health, and Ken Pointer from the Enforcement Division addressed a public meeting organized by Project Witherspoon at Mount Olive School. They released the findings of the drilling and trenching at the landfill, which were largely negative. A summary document provided by the superfund office at the meeting indicated that the Candora site was now the site of greatest concern. The "current assessment" for the Candora site read as follows:

- * Groundwater contaminated. Likely recharging Goose Creek.
- * Large areas of contaminated soil (hazardous and/or radioactive).
- * Severe erosion of materials to Goose Creek. Runoff from site heavily contaminated.
- * Fugitive dust from site is potential hazard in immediate area.
- * Goose Creek continues to be affected by contaminated soil and current operations.
- * Very complex remedial problem.

For the landfill, the superfund office reported:

- * Landfill mostly garbage with minor amounts of hazardous waste and some radioactive material buried within.
- * Cap on landfill in relatively good condition.
- * Groundwater contaminated on-site.
- * Off-site groundwater contamination unlikely.
- * Leachate presents localized surface water threat.
- * Leachate problem mostly attenuated in old surface impoundment. [This refers to the small pond just above Mayo's.]
- * Radioactive and hazardous materials on surface represent problem true (sic) direct contact, inhalation or erosion.

And finally, according to the superfund office, the Screen Arts site appeared to be of least concern. Their assessment was:

- * Spotty surficial contamination. Relatively simple to eliminate.
- * Old Rader (capped) area needs to be evaluated to determine if hazardous constituents exist beneath cap. [This refers to the "hot field."]
- * Minor off-site problem in surface drainage.
- * Unlikely major groundwater problem exists due to sporadic nature of contamination and contaminants involved. Groundwater needs to be investigated to provide documentation.

On October 7, 1993, the State of Tennessee filed an action in Davidson County Chancery Court which effectively halted operations at the Candora site. The state charged that even while their superfund investigation was underway, Witherspoon had allowed additional hazardous wastes to be dumped there. According to documents filed with the Chancery Court, these wastes included "used motor oil and insulation ash, both contaminated with toxic concentrations of lead, and a drum of corrosive material which ate through its container." (The "insulation ash" was, Dan Hawkins explained to us later, ash produced by burning the insulation of electrical wires. It was also contaminated with mercury and PCBs.) The state concluded that "Defendants operate the site with gross indifference to compliance with environmental laws and efforts of State Superfund and U.S. DOE to assess and remediate" and that assessment and remediation of the site could not go forward while Witherspoon continued to operate there. As a result, it asked for an injunction prohibiting the transportation of anything onto or off of the site until such time as Witherspoon could obtain the necessary permits and comply with all relevant environmental laws. The injunction

request was granted at a hearing in Nashville October 19, 1993 and remains in effect as of this writing. The Candora site remains closed and cordoned off with razor wire.

In about 1994 or 1995 DOE removed many tons of contaminated soil from the Screen Arts site, leaving the surface of the site relatively uncontaminated. Shortly after this cleanup, however, Witherspoon workers released hydraulic oil containing PCBs onto the soil at the site, recontaminating it. They then scraped away this contaminated soil and stored it in barrels onsite, in apparent violation of state regulations. The state is currently investigating this incident.

During the mid 90s the Department of Energy did a series of field studies to determine the feasibility of remediation at the 901 site and at the landfill. In about 2000, the results of these studies were sent to the Tennessee Department of Environment and Conservation's division of Superfund for comments. The Superfund Division approved with minor emendations the plan for the landfill, but sent back for extensive revisions the Candora site plan. Both plans would cost tens of millions of dollars to carry out.

On Earth Day (April 22), 2002, the Knox County Commission passed a resolution urging the Tennessee legislative delegation to "take any and all steps necessary to cause the Department of Energy to begin serious efforts at cleaning up the Witherspoon hazardous waste sites on Maryville Pike." The resolution (R-02-4-905) incorporated an earlier draft of this history as background information.

In July, the County Commission received a response from Congressman John J. Duncan. Duncan enclosed a letter from Jesse Hill Robertson, Assistant Secretary for Environmental Management at the U.S. Department of Energy, stating in part:

The Department of Energy has been actively working with the State of Tennessee to address the South Knoxville Witherspoon sites that are noted in the Knox County Commission resolution. The cleanup plan for these two sites has now been agreed to. We will begin cleanup in 2003, and we plan to complete the work by 2006.

This was the first public announcement that the state of Tennessee and the DOE had reached a final cleanup agreement.

[Home](#)

David-Witherspoon, Inc. (SUB-587, 40-6764)

Location: David Witherspoon, Inc.,
901 Maryville Pike
Knoxville, TN 37901

Places of Receipt;

United Nuclear Corporation
Hematite, Mo

Goodyear Atomic Corporation
Piketon, OH

And At the Following AEC Sites:

Oak Ridge Laboratory Complex
Oak Ridge, TN

St. Louis Airport Site
St- Louie, MO

St- Louis Area Office
Weldon Springs, MO

Paducah Area Office
Paducah, KY

Activity: Purchase and resale of U and Th surface-contaminated
scrap metals for recovery through melting-

ORNL

- Concerns:
- 1) More than one site was identified
 - 2) Evidence of burial at one or more sites
 - 3) No documentation of closeout survey
 - 4) Limited release to environment
 - 5) No documentation of waste disposal

Region IIT

- Ramarks:
- 1) Scrap metal obviously buried at airport site as indicated in the invitation to bid (Invitation No- AT-(23-2)-47) which specifically states -bheib tho aalc- I rxc limcla o --11 o3clatlnd a4-z&iP
UXC)13L1 amliatl"s ax-c-XMrAd I-qxr"l o. (qi-
airport site is a WE FUSRAP site.)
 - 2) Weldon Springs and St - Louis Airport sites are currently undergoing decontamination by DOE
 - 3) Oak Ridge Laboratory complex and Paducah Area Office are currently still DOE facilities.
 - 4) Goodyear Atomic Corp- is now Martin-Marietta, & gaseous diffusion plant for the DOE
 - 5) The United Nuclear Corporation facility changed

owners and is now Combustion Engineering, which

still Maintains a license with the NRC_ George

France, Senior Puels Facility InaPector. NRC Region III, detailed several envira~~r~~mental surveys of the area surrounding the facility *which indicate 1-1161 activity exceeding limits.*

- 6) Material was mainly processed at the Knoxville facility
- 7) It appears that all of the facilities above, with the exception of Witherspoon's processing facility in Knoxville, are NRC and/or DOE licensed facilities and are either still active or currently
- 8) Knoxville site is a current subject of discussion between DOE and the state of Tennessee concerning clean-up.
- 9) All contaminated metal was transferred to ARC

licensed smelters

Regional

Recommendate ion All sites within Region III *are* either

currently licensed facilities or already
undergoing remediation, therefore removal
from the list is recommended

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Series focuses on nuclear weapons

Amanda Jacobson
Staff Writer

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A series of speakers will present three talks on campus that consider the relationship **Knoxville** residents and UT students have with nuclear weapons production.



The first presentation in the series, titled "Questions of Security: Environment? Disarmament? Demilitarization?" will take place tonight at 7:30 p.m. in the University Center Shiloh Room.

John Nolt of the UT Philosophy Department will present "A Nuclear Waste Dump in South **Knoxville**: The Story of **David Witherspoon, Inc.**"

The **David Witherspoon** metal recycling site is one of 17 superfund sites (hazardous waste sites that are being cleaned up by the Environmental Protection Agency's Superfund Program) in the South **Knoxville** Area.

According to an article by Nolt, in the '50s, '60s and '70s, the scrap metal recycler **David Witherspoon, Inc.** handled several tons of metal from Oak Ridge that was contaminated with radioactive material including uranium. **David Witherspoon** also handled the deconstruction of transformers, many of which contained high levels of the harmful chemical Polychlorinated biphenyls, or PCB.

The **David Witherspoon** sites are located in the Vestal neighborhood of South **Knoxville**, on Maryville Pike and Candora Avenue.

Nolt said that UT students are safe from contamination from the Witherspoon site. However, it is likely that PCBs found in the Tennessee River and Goose Creek are from the Witherspoon site.

PCBs were used widely as insulation for transformers in the 1950s. When the harmful effects of the chemical were discovered, the transformers were removed. Workers at **David Witherspoon, Inc.** reported using a wrecker-ball to smash open the transformers and remove the copper wire, and according to Nolt, the PCB liquid was allowed to go into the ground.

"Certainly the groundwater underneath the site is contaminated," Nolt said. "You wouldn't want to go and play in the sediment at Goose Creek."

Nolt will be also be discussing the United States Department of Energy's relationship with Witherspoon and if the Department of Energy's

pronouncements about the safety of nuclear weapons production are trustworthy.

The discussion will also look at why such sites are often located in disadvantaged areas and at the human, political and social costs of nuclear weapons production.

Paloma Galindo, of the Oak Ridge Environmental Peace Alliance will present "The Escalating Arms Race," Wednesday at 7:30 p.m. in the UC Ballroom. The talk will focus on the heart of the nation's nuclear weapons complex, the Y-12 plant in Oak Ridge, Tenn. and what people can do to make a difference in the safety of their community.

Bob Poeschl, a UT student and member of **Knoxville's** Stop the Bombs, feels it is important that students and faculty attend the lectures to learn about the reality of nuclear weapons production and the dangers surrounding **Knoxville**. Poeschl said the talk will answer the question of security.

"As Americans, we have been giving a lot in the name of security," Poeschl said. "What happened on Sept. 11 would not compare to what would happen if a nuclear warhead was used in a city," Poeschl said.

He noted that the Y-12 plant in Oak Ridge is the last full-scale nuclear production plant in the United States and described Oak Ridge as a "vital part" of nuclear production in this country.

The final presentation will be on April 11 at 7:30 p.m. with Brad van Guilder presenting "Academia's Role in Waging War: Untangling the Web of Military Research Conducted at Universities and Colleges in the U.S."

The discussion will consider the financial and political ties that institutions of higher learning have with the United States Military. Van Guilder will focus on how to investigate and expose those interests, how to propose concrete alternatives and how to counter the most common arguments for maintaining such a relationship.

This series of events is sponsored by Amnesty International, Muslim Student Association, Progressive Student Alliance, One Community and SPEAK.